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Through Jazz, Bringing Mediation 'Fresh to Life'

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MALIBU - One day last week, a jazz trio let loose before a rapt audience with an improvised performance of Jerome Kern's 1933 standard, "Yesterdays."

The resumes of drummer Paul Cohen, guitarist Dave Koonse and bassist Putter Smith read like a who's who of jazz greats. The musicians have played with Bill Evans, Charles Mingus, Thelonius Monk, Art Blakey and Harry James, among others.

But this was no smoky late-night jam at the Jazz Bakery, and the audience wasn't a group of jazz aficionados.

The musicians were collaborating in a classroom at Pepperdine University School of Law before a group of neutrals, lawyers and judges attending the Straus Institute for Dispute Resolution's summer skills conference.

Called "Improvisational Mediation," the course was created by Los Angeles mediator Jeffrey Krivis, who teaches it with help from his mediation partner Mariam Zadeh and attorney Brian Breiter.

The class has attracted students from across the country for a discussion of how to apply improvisational techniques to mediations.

Krivis, a student of both improvisation comedy and jazz guitar, lead the discussion, inventing mediation scenarios and improvised dialogues with the students, aimed at settling simulated cases.

Then he introduced the jazz trio for a demonstration of a different type of improvisation.

After the trio finished "Yesterdays," the class discussed the art and science of improvised jazz and how it applies to mediation.

Krivis pointed out to the class that, even though the musicians had played together only a few times before, they were all willing to cooperate with one another and to let the others take the lead. But, he noted, in mediation, like in jazz, sometimes selfishness comes into play.

"What if somebody who is really popular came in now [to join the trio], and he does have an ego?" Krivis asked the musicians.

"First of all, you try to make him look good - then you try to get rid of him," answered the bassist, Smith.

The operative phrase of the class was "yes, and" - the cornerstone of improvisation, because saying it accepts an improvised statement and starts adding to it.

"You're saying, 'Yes, and let me build on that'" with each successive solo, said Breiter, also an improvisation performer, who appears at comedy clubs throughout Los Angeles.

Cohen, the drummer, who is also a lawyer, said his attention to the improvised phrasing of other musicians has helped him detect what is needed to settle a case by listening to the litigants' voices.

"I hear a roughness or a fragility," Cohen said. "To a lot of people, that's irrelevant, but it's really important if you want to resolve it instead of going to court."

In jazz, every performance gives the song a new meaning, the musicians agreed.

"You think differently," Koonse, the guitarist, said. "You bring it fresh to life."

The class responded with enthusiasm.

"We didn't know [Krivis] was going to do the jazz stuff," said Irvine-based mediator and attorney Geraldine Jaffe. "It's extraordinary."

Another student even asked Krivis for an autograph of his 2006 book, also called "Improvisational Mediation," like the name of the course.

Krivis isn't the only person to have noticed similarities between jazz and mediation.

JAMS mediator and Northwestern University dispute resolution professor John Cooley takes up the topic in a recent article for the Journal of Dispute Resolution, called "Mediation, Improvisation, and All That Jazz."

In the article, Cooley concludes that "in order to be a masterful negotiator, mediator and/or mediation advocate one has to not only be a musician at heart, but also a jazz musician, an improvisational artist."

After a few more songs - a swinging, dissonant, "I've Been Working on the Railroad," and



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"It's completely opened up new disciplines that have allowed me to grow," said Jeffrey Krivis, who uses jazz improvisation to teach meditation techniques to ADR professionals.



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"I hear a roughness or a fragility. To a lot of people, that's irrelevant, but it's really important if you want to resolve it instead of going to court," drummer and lawyer Paul Cohen said of how improvisation in music has helped him detect what is needed to settle a case.

Dave Brubeck's signature tune, "Take Five" - the class adjourned.

Afterward, Krivis said that he has found his study of improvisation invaluable in conducting his own mediations.

"It's completely opened up new disciplines that have allowed me to grow," he said.

He was especially taken by Koonse's observation about bringing old songs "fresh to life."

Krivis said that mediators do that with disputes, the same way jazz musicians do it with standards.

"They don't know anything about mediation," he said of the musicians, "but they're using our words."

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